

 **07-R-1793**

A RESOLUTION BY COUNCILMEMBER CARLA SMITH

AS SUBSTITUTED BY CITY UTILITIES COMMITTEE

AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF TWO THOUSAND DOLLARS AND 00/100 (\$2,000.00) AS STIPULATED PENALTIES FOR THE VIOLATION OF FECAL COLIFORM OPERATIONAL STANDARDS AT THE CUSTER AVENUE CSO ON JUNE 28, 2007 PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City") has experienced violations of Fecal Coliform Operational Standards as set out in Exhibit "A" hereto; and

WHEREAS, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT Paragraph XI.D.1-2 ; and

WHEREAS, the Department of Watershed Management of the City does not dispute the fact this violation of Fecal Coliform Operational Standards did occur; and

WHEREAS, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, funds for this purpose are available in Fund, Account and Center Number 2J01 529017 Q30001; and

WHEREAS, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

WHEREAS, it is deemed to be in the interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows, that the Chief Financial Officer of the City is authorized to issue checks in the amounts of One Thousand Dollars and 00/100 (\$1,000.00) payable to the **State of Georgia** and One Thousand Dollars and 00/100

(\$1,000.00) payable to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia for said violations of Fecal Coliform Operational Standards at the Custer Avenue CSO on June 28, 2007.

BE IT FINALLY RESOLVED, that the said payments be charged to and paid from Fund 2J01 (Water & Wastewater Revenue), Account 529017 (Property/Liquidation) and Center Number Q30001 (Deputy Commissioner, Treatment & Collection).

Exhibit A

The City is subject to stipulated penalties for violations of the CSO Consent Decree, Section XI.D.2 as follows:

Section XI.D.2. Fecal Coliform May-October

| Date | Facility | Colonies/100 ml | Penalty | Comment |
|-------------|-----------------|------------------------|----------------|----------------|
| 6/28/07 | Custer Ave. CSO | 3,200 | \$2,000.00 | |

A RESOLUTION BY



07- R-1793

COUNCILMEMBER CARLA SMITH

AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF \$_____ AS STIPULATED PENALTIES FOR THE VIOLATION OF CSO FECAL COLIFORM OPERATIONAL STANDARDS _____ PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, the City has experience a violation to the CSO Consent Decree set out in Exhibit "A" hereto; and

WHEREAS, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT; and

WHEREAS, the Department of Watershed Management of the City does not dispute the fact this violation did occur; and

WHEREAS, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, funds for this purpose are available in Fund, Account and Center Number 2J01-529017-Q31001; and

WHEREAS, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

WHEREAS, it is deemed to be in the best interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD).

NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1: That the Chief Financial Officer of the City of Atlanta is authorized to issue checks payable in the amount of \$_____ to the **State of Georgia** and in the amount of \$_____ to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental

Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

Section 2: That said payments shall be charged to and paid from Fund, Account and Center Number 2J01 529017 Q30001.

Section 3: That all resolutions and parts of resolutions in conflict herewith be and are hereby waived in this instance only.

EXHIBIT A

The City is subject to stipulated penalties for violations of the CSO Consent Decree, per Section_____ as follows:

CSO Consent Decree Section

| Date | Facility | Colonies/100 ml | Penalty | Comment |
|------|----------|-----------------|---------|---------|
|------|----------|-----------------|---------|---------|